

AO 91 (Rev. 02/09) Criminal Complaint

UNITED STATES DISTRICT COURT

for the
Southern District of TexasUnited States District Court
Southern District of Texas
FILED

JAN 18 2017

David J. Bradley, Clerk

United States of America
v.
Joaquin DE LA CRUZ YOB: 1985Case No. M-17-0107-MDefendant

CRIMINAL COMPLAINT

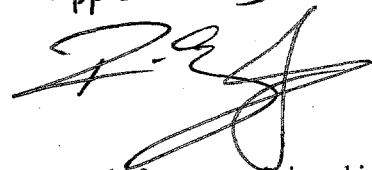
I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date of 01/17/2017 in the county of Hidalgo in the Southern District of
Texas, the defendant violated Title 18 U. S. C. § Section 922 (g)(1)
, an offense described as follows:

The defendant, did knowingly and unlawfully possess a firearm, namely a Ruger, model P95, 9mm pistol, that had previously traveled in and affected interstate commerce, after being convicted in a court of law for a felony crime punishable by imprisonment for a term exceeding one year.

This criminal complaint is based on these facts:

SEE ATTACHMENT A

☒ Continued on the attached sheet.Approved by


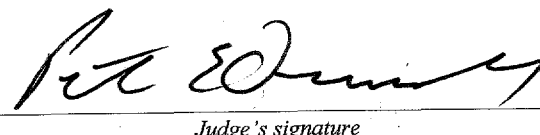
Complainant's signature

Michael Cardenas, ATF Special Agent

Printed name and title

Sworn to before me and signed in my presence.

Date:

January 18, 2017 9:01am

Judge's signature

City and state:

McAllen, Texas

Peter Ormsby, U.S. Magistrate Judge

Printed name and title

ATTACHMENT A

I, Michael Cardenas, being duly sworn, do hereby state that I am a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), a Division of the United States Justice Department, and have been so employed since March 4, 2007. Prior to employment with the ATF, I was employed as a United States Border Patrol Agent for 8 months. I possess a Bachelors of Science Degree in Criminal Justice with a Minor in Sociology from the University of Texas Pan-American. I am a graduate from the Federal Law Enforcement Training Center and the ATF National Academy. As a Special Agent with the Bureau of Alcohol, Tobacco, Firearms and Explosives, I am vested with the authority to investigate violations of Federal laws, including Titles 18 and 26, United States Code.

This affidavit is in support of a criminal complaint charging Joaquin DE LA CRUZ (hereinafter referred to as "DE LA CRUZ"), with the criminal violation set forth in Attachment A. The evidence available to me demonstrates that there is probable cause to believe that DE LA CRUZ has violated Title 18 U.S.C 922(g)(1) which provides as follows: It shall be unlawful for any person who has been convicted in any court of, a crime punishable by imprisonment for a term exceeding one year, to receive, possess, or transport any firearm or ammunition in or affecting interstate or foreign commerce; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

Further, the Affiant states as follows:

On January 17, 2017, your Affiant was contacted by a Task Force Officer (TFO) of the United States Marshals Service (USMS) requesting ATF assistance at a residence in Donna, TX. Your affiant was advised that the USMS with the assistance of San Juan Law Enforcement Emergency Regional Response Team (LEERRT) attempted to execute a state arrest warrant on Joaquin DE LA CRUZ, a convicted felon. As law enforcement made entry to the residence, a male subject, later identified as DE LA CRUZ, was observed running to a back room where he barricaded himself. Law Enforcement heard several gun shots and subsequently made entry into the room. As Law Enforcement gained access into the room, they observed in plain view a black and silver pistol that was located on the bed. DE LA CRUZ fled out the back door and jumped a fence into an adjacent property, where DE LA CRUZ was taken into custody. Law enforcement did not see any other occupants in the residence, other than DE LA CRUZ, as they made entry into the residence.

Your Affiant along with several ATF Agents arrived on scene to provide assistance. Upon arriving at the scene, your Affiant received written consent to search the property from the home owner. As a result of the consent to search, one Ruger, model P95, 9mm pistol was recovered in the bedroom where the shots were being fired from. Approximately ten (10) 9mm casings were recovered from the bedroom. It was also observed that several shots had been fired at the door that led to the backyard of the residence.

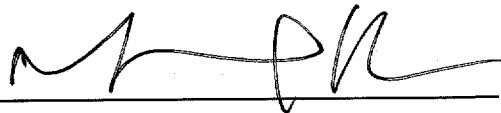
ATTACHMENT A

During a post Miranda interview of DE LA CRUZ, DE LA CRUZ stated he was in the kitchen when he heard law enforcement making entry into the residence. DE LA CRUZ stated he ran to the middle bedroom where he retrieved the aforementioned firearm. DE LA CRUZ stated he ran to a room where he barricaded himself. As law enforcement attempted to make entry into the room where DE LA CRUZ was in, DE LA CRUZ stated he made several attempts to exit the room through a window of the bedroom and subsequently began shooting at the rear door of the room to evade arrest. DE LA CRUZ stated he was able to exit the residence through the rear door. As to the firearm recovered, DE LA CRUZ stated that he recently stole the firearm from an individual from Alamo, TX.

On January 17, 2017, your affiant spoke with ATF Resident Agent in Charge (RAC) Noel R. Rangel, who is a recognized expert in the interstate and foreign commerce travel of firearms and ammunition. Based on the information your affiant provided RAC Rangel about the firearm possessed by DE LA CRUZ, RAC Rangel stated the firearm was manufactured outside of the State of Texas and therefore, previously traveled in interstate or foreign commerce at sometime prior to being possessed by any person in the State of Texas.

On January 17, 2017, a Computerized Criminal History check on DE LA CRUZ revealed that that DE LA CRUZ was convicted in 2009 for Aggravated Robbery in Hidalgo County, TX and sentenced to eight years confinement in the Texas Department of Criminal Justice.

Based on the above information, your affiant believes Joaquin DE LA CRUZ, was in possession of the above mentioned firearm in violation of Title 18, United States Code, Section 922(g)(1), on January 17, 2017, in Hidalgo County, Texas.



Michael Cardenas, ATF Special Agent

Sworn to before me and subscribed in my presence,



Peter Ormsby, U.S. Magistrate Judge

